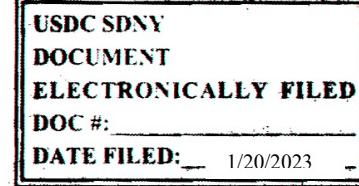


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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DAVID CARTER,

Petitioner,

22-CV-09019 (ER)(SN)

-against-

ORDER

ANTHONY ANNUCCI,

Respondent.

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SARAH NETBURN, United States Magistrate Judge:

On January 5, 2023, Petitioner filed a motion to compel the production of his oral argument transcripts at the Appellate Division and to “separate necessary paperwork that was placed aside in agreement by A.D.A. and Lawyer prior to trial or jury verdict.” ECF No. 39. On January 12, 2023, Petitioner filed a short letter regarding his claims and supporting documents. ECF No. 41. That same day, Petitioner also filed a “motion for investigation or assignment of counsel or a private investigator.” ECF No. 41. On January 19, 2023, Petitioner filed a “declaration to clarify why robbery 1st degree should be vacated and or remanded/reversal as well as modification of sentence.” ECF No. 44. He also filed a “declaration to inspect court records,” ECF No. 45, and a one-page letter styled as a “motion to vacate robbery 1st degree and reverse and or modify,” ECF No. 46.

The Petitioner filed his habeas petition on May 10, 2022. The Court will deem Petitioner’s filings as a supplement to his petition. Accordingly, Respondent is ordered to review and respond, as appropriate, to the arguments raised in ECF No. 41, 44, 45, & 46. Petitioner is reminded that the Respondent’s answer will be filed on March 1, 2023, and Petitioner may file a

response, if any, no later than **March 31, 2023**. Before March 31, no further submissions by the Petitioner will be accepted and he should cease filing documents until such time as his response is due.

The Respondent has responded to Petitioner's motion to compel. ECF No. 43. Recognizing that the Petitioner does not have an automatic right to discovery in a habeas petition, the Court cannot determine on this record that production of the argument transcript will not assist Petitioner. And, because the burden is minimal, the Court ORDERS the Respondent to serve Petitioner with the transcript of his direct appeal oral argument on or before March 1, 2023. Any other request for "necessary paperwork" or other documents is DENIED.

Finally, Petitioner seeks the Court's assistance – directly or through the appointment of pro bono counsel or a pro bono investigator – to establish his claims. Under the Criminal Justice Act (CJA), courts have discretion to appoint counsel or hire an investigator when "the interests of justice so require." 18 U.S.C. § 3006A(a)(2)(B) and § 3006A(e). Petitioner has not established that the interests of justice require the appointment of pro bono counsel or an investigator. Accordingly, his motion for such appointment is DENIED.

The Clerk of Court is respectfully requested to terminate the motions at ECF Nos. 39 & 41.

SO ORDERED.

DATED: New York, New York
 January 20, 2023



SARAH NETBURN
United States Magistrate Judge